

## **REMARKS**

The present response is intended to be fully responsive to all points of rejection raised by the Examiner in the Office Action dated July 3, 2006, which points applicant respectfully traverse. Favorable consideration and allowance of the application is respectfully requested.

### **Claims rejections under 35 USC 103(a)**

Claims 1-25 are rejected as being unpatentable over United States Patent Application No. 20050027617 to Zucker et al. (hereinafter “Zucker”) in view of United States Patent Application No. 20040117451 to Chung (hereinafter “Chung”).

Applicant respectfully submits that the Chung reference is ineligible for consideration as prior art with respect to the present application, and that a *prima facie* case of obviousness under 35 USC 103(a) has therefore not been made.

The present application was filed on February 20, 2002, and claims benefit from U.S. Provisional Patent Application No. 60/269,387, filed February 20, 2001. Thus, the effective date of the present application is February 20, 2001, for the purpose of determining what qualifies as prior art (see MPEP 706.02 (V) (D)).

Chung was filed in the PCT on March 22, 2002, after Applicant’s effective date of February 20, 2001. Chung’s earliest priority claim is to a US Provisional Patent Application filed March 22, 2001, also after Applicant’s effective date of February 20, 2001. Finally, Chung was published as PCT Publication No. WO02/077768 on October 3, 2002, also after Applicant’s effective date of February 20, 2001.

As Chung was neither filed nor published prior to Applicant’s effective filing date, Chung does not qualify as prior art under 35 USC 103(a) with respect to the present application and, therefore, cannot be considered in combination with Zucker.

As Chung has now been eliminated as a prior art reference, and as Zucker alone is insufficient to support the 103(a) rejection, Applicant requests that the rejection of claims 1 – 25 be withdrawn.

In view of the foregoing, it is believed this application is now in condition for allowance, for which a Notice of Allowance is respectfully requested.

**Petition For Three-Month Extension Of Time Under 37 CFR 1.136(a)**

The period for responding to the instant Office Action was set to expire on October 3, 2006. Applicant hereby requests that the period for responding to the instant Office Action be extended by three (3) months, so as to expire on January 3, 2007. Accordingly, this response is being timely filed.

**Payment Authorization**

The fee for a Petition for a Three-Month Extension of Time is Five Hundred and Ten Dollars (\$510.00) dollars for a small entity. No additional fees are believed due. The United States Patent and Trademark Office is hereby authorized to charge Deposit Account 501380 in the amount of Five Hundred and Ten Dollars (\$510.00) and any additional fee which is necessary in connection with this filing.

Respectfully submitted,



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